

SUPREME COURT OF WISCONSIN

Case No.: 97-3483-CR

Complete Title
of Case:

State of Wisconsin,
Plaintiff-Respondent,
v.
Kenneth L. Moucha,
Defendant-Appellant-Petitioner.

ON REVIEW OF A DECISION OF THE COURT OF APPEALS
Reported at: 218 Wis. 2d 168, 578 N.W.2d 211
(Ct. App. 1998, Unpublished)

Opinion Filed: April 13, 1999
Submitted on Briefs:
Oral Argument: February 25, 1999

Source of APPEAL
COURT: Circuit
COUNTY: Chippewa
JUDGE: Thomas J. Sazama

JUSTICES:
Concurred: Bradley, J., concurs (opinion filed)
Abrahamson, C.J., joins
Dissented:
Not Participating:

ATTORNEYS: For the defendant-appellant-petitioner there
were briefs and oral argument by *David D. Cook*, Monroe.

For the plaintiff-respondent the cause was
argued by *Daniel J. O'Brien*, assistant attorney general, with
whom on the brief was *James E. Doyle*, attorney general.

NOTICE

This opinion is subject to further editing and modification. The final version will appear in the bound volume of the official reports.

No. 97-3483-CR

STATE OF WISCONSIN

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IN SUPREME COURT

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FILED

APR 13, 1999

Marilyn L. Graves
Clerk of Supreme Court
Madison, WI

REVIEW of a decision of the Court of Appeals. *Dismissed.*

¶1 PER CURIAM Petitioner, Kenneth L. Moucha (Moucha), requests this court to review an unpublished decision of the court of appeals, State v. Moucha, unpublished slip op. (Wis. Ct. App. March 24, 1998) in which the court of appeals affirmed the order of the Chippewa County Circuit Court, the Honorable Thomas J. Sazama presiding, which denied Moucha's presentence and post-conviction motions to withdraw his plea.

¶2 After fully examining the record and the briefs filed by the parties, and hearing oral arguments, we conclude that this case does not present the legal issue that the court anticipated, namely whether a defendant's misunderstanding the terms of a plea agreement is sufficient to warrant withdrawal of his plea. The record, particularly the circuit court's findings of fact, preclude us from determining this issue. The only issues presented are those that do not meet the criteria this court has adopted for reviewing court of appeals' decisions. State v.

Kennedy, 167 Wis. 2d 742, 743, 482 N.W.2d 652 (1992). Therefore, we dismiss this petition for review as improvidently granted.

By the Court.—The petition for review is dismissed as improvidently granted.

¶3 ANN WALSH BRADLEY, J. (*Concurring*). The court accepted review of this case. The parties filed their written briefs and also presented oral arguments to the court. Since this case has been fully briefed and argued, I would decide the case on its merits. I therefore do not join the majority's determination that the petition was improvidently granted.

¶4 I am authorized to state that CHIEF JUSTICE SHIRLEY S. ABRAHAMSON joins this opinion.

